

APR 10 2006

PATENT

**IN THE UNITED STATE PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Ming-Hung Lin
	:	
For	:	MOBILE DEVICE, AUXILIARY RENDERING
	:	DEVICE AND ARRANGEMENT
	:	
Serial No.:	:	09/989,255
	:	
Filed	:	November 20, 2001
	:	
Art Unit	:	2686
	:	
Examiner	:	Bryan J. Fox
	:	
Att. Docket	:	TW 000008
	:	
Confirmation No.	:	9593

APPEAL BRIEF

Mail Stop Appeal Brief Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed on January 9, 2006.

I. REAL PARTY IN INTEREST

The party in interest is the assignee, Koninklijke Philips Electronics N.V. The assignment document is recorded at Reel 012751 and Frame 0804.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences.

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Application No: 09/989,255
Attorney's Docket No: TW 000008

III. STATUS OF CLAIMS

This is an appeal from the Final Office Action dated August 24, 2005 rejecting claims 1-6, 8, 9, 12-16 and 18. Claim 7 stands objected to. Claim 19 stands allowed. Claims 10, 11 and 17 stand cancelled. No other claims are pending in the application.

The claims being appealed are claims 1-9, 12-16 and 18.

IV. STATUS OF AMENDMENTS

All Amendments filed in this application have been entered. A correct copy of appealed claims 1-9, 12-16 and 18, including all entered amendments thereto, appears in the attached Claims Appendix.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention relates to a mobile device, auxiliary rendering device and arrangement.

Claim 1 (independent – mobile device)

The mobile device (Fig. 1, ref. 110), as claimed in independent claim 1, comprises primary communication means for establishing a primary communication session (Specification: page 1, lines 1-4) via a transcoding proxy (Fig. 1, ref. 104) with a content server (Fig. 1, refs. 101-103), and auxiliary communication means for establishing an auxiliary communication session (Specification: page 1, lines 1-4) with an auxiliary rendering device (Fig. 1, refs. 120-121). The auxiliary communication means are arranged for receiving an assistance message from the auxiliary rendering

Application No: 09/989,255
Attorney's Docket No: TW 000008

device that contains information on the rendering capabilities of the auxiliary rendering device (Specification: page 3, lines 23-28). The auxiliary communication session includes content of the primary communication session that is adapted to the capabilities of the auxiliary rendering device (see Specification: page 2, lines 27-29).

Claim 8 (independent – auxiliary rendering device)

The auxiliary rendering device (Fig. 1, refs. 120-121), as claimed in independent claim 8, comprises mobile device communication means for establishing an auxiliary communication session (Specification: page 1, lines 1-4) with a mobile device (Fig. 1, ref. 110) and rendering means for rendering content received in the auxiliary communication session. The mobile device communication means are arranged for transmitting an assistance message comprising information on the rendering capabilities of an auxiliary rendering device (see Specification: page 2, lines 27-29) to the mobile device.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 1-4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 5,880,732 to Tryding (“Tryding”) in view of US Patent No. 6,556,217 to Makipaa et al. (“Makipaa”) and US Patent No. 6,622,018 to Erikson (“Erikson”).

B. Claims 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tryding in view of Erikson.

Application No: 09/989,255
Attorney's Docket No: TW 000008

C. Claims 5, 6, 12-16 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over combinations of the above-cited references and further in view of various other secondary references.

VII. ARGUMENT

In the Final Office Action dated 08/24/2005, the Examiner rejected claims 1-4 under 35 U.S.C. § 103(a), using Tryding as a primary reference and relying upon Makipaa and Erikson as secondary references, hereinafter noted the "TME combination." The Examiner also rejected claims 8 and 9 under 35 U.S.C. § 103(a), using Tryding as a primary reference and relying upon Erikson as a secondary reference, hereinafter noted the "TE combination." Dependent claims 5, 6 and 12-16 were rejected under 35 U.S.C. § 103(a) over the TME combination and further in view of various other secondary references; and dependent claim 18 was rejected under 35 U.S.C. § 103(a) over the TE combination and further in view of one of said various other secondary references.

The *prima facie* test for obviousness is set forth by M.P.E.P. § 2143:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Application No: 09/989,255
Attorney's Docket No: TW 000008

Appellant will show that the prior art references cited by the Examiner do not teach or suggest all the claim limitations, as recited in each of independent claims 1 and 8, and consequently in any of their respective dependent claims.

A. Rejection of Claims 1-4 under 35 U.S.C. §103(a)

Claims 1-4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 5,880,732 to Tryding ("Tryding") in view of US Patent No. 6,556,217 to Makipaa et al. ("Makipaa") and US Patent No. 6,622,018 to Erikson ("Erikson").

Appellant respectfully submits that the TME combination does not teach or suggest all the claim limitations as set forth in independent Claim 1. In particular, the TME combination does not teach "the auxiliary communication session including content of the primary communication session that is adapted to the capabilities of the auxiliary rendering device" as recited in Claim 1. Tryding shows a mobile device and an auxiliary rendering device. However, the content sent from the mobile device to the rendering device in Tryding is only numeric and textual data, and Tryding is silent about adapting the content to the rendering capabilities of the auxiliary rendering device. Makipaa does show a pagination module for adapting content to the limited display capabilities of a mobile device (see Fig. 2 in Makipaa). However, the configuration shown in Makipaa would only correspond to a combination of a content server and a mobile device, by analogy with the present invention, since Makipaa does not teach either an auxiliary rendering device or an auxiliary communication session between the mobile device and an auxiliary rendering device. Appellant therefore submits that combining Tryding with Makipaa would not yield "the auxiliary

Application No: 09/989,255
Attorney's Docket No: TW 000008

communication session including content of the primary communication session that is adapted to the capabilities of the auxiliary rendering device" as recited in Claim 1. Appellant will show that Erikson does not cure that deficiency.

The Examiner admitted in the Final Office Action that the combination of Tryding and Makipaa fails to disclose an assistance message from the auxiliary rendering device comprising information on the rendering capabilities of the auxiliary rendering device. The Examiner relied upon Erikson for this feature. Erikson is related to a system and method for controlling a plurality of remote devices over a wireless connection. Appellant submits that, contrary to the Examiner's assertion, Erikson does not cure the deficiencies of the combination of Tryding and Makipaa. What Erikson shows is a bi-directional communication between a portable computer and a plurality of remote devices (Fig. 6) to be controlled by the portable computer, whereby the portable computer obtains information necessary for controlling the remote devices, such as a Medium Access Control (MAC) address, the type of each device, an identifier, etc. (Col. 8:42-55) The portable computer can then transmit a command to a selected remote device for controlling the device in some controlled manner (e.g., turning the device off or on, raising or lowering a level, etc.) based on the type of device (Col. 8:56-61). Appellant therefore submits that there is no teaching in Erikson of a rendering device sending a message comprising information on its rendering capabilities. Similarly, there is no teaching in Erikson of an auxiliary communication session including content of a primary communication session that is adapted to the capabilities of the auxiliary rendering device, because there is no primary and auxiliary communication sessions in Erikson, but only a communication between the portable computer and the remote devices.

Application No: 09/989,255
Attorney's Docket No: TW 000008

Accordingly, Claim 1 is patentable over Tryding in view of Makipaa and Erikson because all claims limitations are neither taught nor suggested. Reconsideration and withdrawal of the rejection of Claim 1 is therefore respectfully requested.

Claims 2-4 depend from Claim 1. Accordingly, Claims 2-4 are allowable for at least the reason that Claim 1 is patentable as well as for the separately patentable elements contained in Claims 2-4.

B. Rejection of Claims 8 and 9 under 35 U.S.C. §103(a)

Appellant incorporates herein by reference the arguments presented above against the rejection of Claims 1-4 under 35 U.S.C. § 103(a) over the TME combination. In the Final Office Action dated August 24, 2005, the Examiner again admitted that Tryding fails to disclose an assistance message from the auxiliary rendering device comprising information on the rendering capabilities of the auxiliary rendering device, and relied upon Erikson for this feature. However, Appellant submits that the combination of these references does not teach nor suggest all the claim limitations for at least the reasons set forth in the arguments presented above against the rejection of Claims 1-4 under 35 U.S.C. § 103(a) over the TME combination, and therefore Claim 8 is not obvious over Tryding in view of Erikson.

Accordingly, Appellant submits that Claim 8 is patentable over the cited art references because all the claim limitations are neither taught nor suggested.

Claim 9 depends from Claim 8. Accordingly, Claim 9 is allowable for at least the reason that Claim 8 is patentable as well as for the separately patentable elements contained in Claim 9.

Application No: 09/989,255
Attorney's Docket No: TW 000008

C. Rejection of Claims 5, 6, 12-16 and 18 under 35 U.S.C. §103(a)

Claims 5, 6 and 12-16

Claims 5, 6 and 12-16 stand rejected under 35 U.S.C. § 103(a) over the TME combination and further in view of various other secondary references.

Claims 5, 6 and 12-16 ultimately depend from Claim 1. Appellant incorporates herein by reference the arguments presented above against the rejection of Claims 1-4 under 35 U.S.C. § 103(a) over the TME combination, and submits that claims 5, 6 and 12-16 are allowable for at least the same reasons that Claim 1 is patentable, and for the separately patentable elements contained in Claims 5, 6 and 12-16.

Claim 18

Claim 18 stands rejected under 35 U.S.C. § 103(a) over the TE combination and further in view of US Patent 6,473,630 to Baranowski et al..

Claim 18 depends from Claim 8. Appellant incorporates herein by reference the arguments presented above against the rejection of Claim 8 under 35 U.S.C. § 103(a) over the TE combination, and submits that claim 18 is allowable for at least the same the same reasons that Claim 8 is patentable, and for the separately patentable elements contained in Claim 18.

Application No: 09/989,255
Attorney's Docket No: TW 000008

VIII. CONCLUSION

Appellant submits that all the claims on appeal are patentable because they are neither anticipated nor suggested by the cited art references. Accordingly, reversal of all the rejections and allowance of all the claims submitted on appeal is respectfully solicited.

Respectfully submitted,
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Application No: 09/989,255
Attorney's Docket No: TW 000008

CLAIMS APPENDIX

1. A mobile device, comprising: primary communication means for establishing a primary communication session via a transcoding proxy with a content server; and auxiliary communication means for establishing an auxiliary communication session with an auxiliary rendering device, the auxiliary communication session including content of the primary communication session that is adapted to the capabilities of the auxiliary rendering device, wherein the auxiliary communication means are arranged for receiving an assistance message from the auxiliary rendering device, the assistance message comprising information on the rendering capabilities of the auxiliary rendering device.
2. The mobile device as claimed in claim 1, comprising rendering means for rendering content received in the primary communication session; and rendering control means for examining the content and redirecting the content to one of the rendering means and the auxiliary communication means in dependence on the examination, wherein the auxiliary communication means are arranged for transmitting the content via the auxiliary communication session for rendering by the auxiliary rendering device.

Application No: 09/989,255
Attorney's Docket No: TW 000008

3. The mobile device as claimed in claim 1, wherein the auxiliary communication means are arranged for establishing the auxiliary communication session in response to the assistance message, and the primary communication means are arranged for transmitting said information on the rendering capabilities to the transcoding proxy.
4. The mobile device as claimed in claim 3, wherein the auxiliary communication means are arranged for transmitting an assistance request to at least one auxiliary rendering device.
5. The mobile device as claimed in claim 4, wherein the primary communication means are arranged for receiving a communication request for establishing the primary communication session, and the auxiliary communication means are arranged for transmitting the assistance request in response to receiving the communication request.
6. The mobile device as claimed in claim 4, wherein the auxiliary communication means are arranged for transmitting the assistance request when a level for the quality of a previously established auxiliary communication session drops below a predetermined value.
7. The mobile device as claimed in claim 3, wherein the auxiliary communication means are arranged for ending the auxiliary communication session and establishing a further auxiliary communication session in response to receiving a further assistance message from a further auxiliary rendering device, said further assistance message comprising information on the capabilities of the

Application No: 09/989,255
Attorney's Docket No: TW 000008

further auxiliary rendering device, and in that the primary communication means are arranged for transmitting said information on the capabilities to the transcoding proxy in response to receiving the further assistance message.

8. An auxiliary rendering device, comprising: mobile device communication means for establishing an auxiliary communication session with a mobile device; and rendering means for rendering content received in the auxiliary communication session, wherein the mobile device communication means are arranged for transmitting an assistance message comprising information on the rendering capabilities of an auxiliary rendering device to the mobile device.

9. The auxiliary rendering device as claimed in claim 8, wherein the mobile device communication means are arranged for transmitting the assistance message to the mobile device in response to receiving an assistance request from the mobile device.

(Claims 10-11: cancelled)

12. The mobile device as claimed in Claim 1, further comprising selection means for selecting a most suitable auxiliary rendering device from among a plurality of auxiliary rendering devices based on the rendering capabilities of each of the plurality of auxiliary rendering devices as specified in a plurality of assistance messages respectively received from the plurality of auxiliary rendering devices.

Application No: 09/989,255
Attorney's Docket No: TW 000008

13. The mobile device as claimed in Claim 1, further comprising selection means for selecting the auxiliary rendering device from among a plurality of auxiliary rendering devices based on at least one of a proximity to the mobile device, and a quickest response time from among each of a plurality of auxiliary rendering devices.

14. The mobile device as claimed in Claim 1, further comprising a timer for timing a time period during which at least one of a plurality of auxiliary rendering devices must respond to the assistance message to avoid an indication that none of the plurality of auxiliary rendering devices are currently available.

15. The mobile device as claimed in Claim 1, further comprising a Radio Frequency (RF) level scanner for scanning an RF level of the auxiliary communication session and comparing the scanned RF level to a predefined threshold to determine whether the auxiliary communication session is to be migrated to another auxiliary rendering device.

16. The mobile device as claimed in Claim 1, wherein the content includes audio content and video content.

(Claim 17: cancelled)

Application No: 09/989,255
Attorney's Docket No: TW 000008

18. The mobile device as claimed in Claim 8, wherein the content includes audio content and video content.

19. A mobile device, comprising: primary communication means for establishing a primary communication session via a transcoding proxy with a content server; and auxiliary communication means for establishing an auxiliary communication session with an auxiliary rendering device, the auxiliary communication session including content of the primary communication session that is adapted to the capabilities of the auxiliary rendering device, wherein the auxiliary communication means are arranged for receiving an assistance message from the auxiliary rendering device, the assistance message comprising information on the rendering capabilities of the auxiliary rendering device, wherein the auxiliary communication means are arranged for establishing the auxiliary communication session in response to the assistance message, and the primary communication means are arranged for transmitting said information on the rendering capabilities to the transcoding proxy, and wherein the auxiliary communication means are arranged for ending the auxiliary communication session and establishing a further auxiliary communication session in response to receiving a further assistance message from a further auxiliary rendering device, said further assistance message comprising information on the capabilities of the further auxiliary rendering device, and in that the primary communication means are arranged for transmitting said information on the capabilities to the transcoding proxy in response to receiving the further assistance message.

Application No: 09/989,255
Attorney's Docket No: TW 000008

EVIDENCE APPENDIX

Listing and copies of evidence relied upon by the Examiner as to grounds of rejection to be reviewed on Appeal:

1. US Patent No. 5,880,732 to Tryding was relied upon by the Examiner as a primary reference for § 103(a) rejections in the Final Office Action dated 08/24/2005.
2. US Patent No. 6,556,217 to Makipaa et al. was relied upon by the Examiner as a secondary reference for § 103(a) rejections in the Final Office Action dated 08/24/2005.
3. US Patent No. 6,622,018 to Erikson was relied upon by the Examiner as a secondary reference for § 103(a) rejections in the Final Office Action dated 08/24/2005.

Application No: 09/989,255
Attorney's Docket No: TW 000008

RELATED PROCEEDINGS APPENDIX

None.